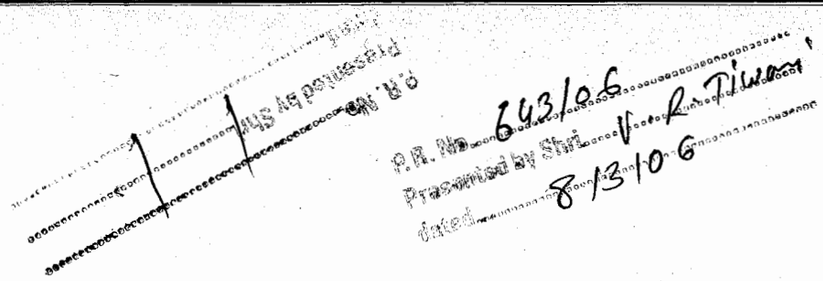

(13)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Single Bench

MISC. APPEAL NO. 341 OF 2006

APPELLANT/ AUCTION PURCHASER	Gautam Chopda, S/o Ratan Lal Chopda, R/o Dhamtari, Tehsil & District Dhamtari (Chhattisgarh).

Versus

RESPONDENT/ DECREE HOLDER	1. State Bank of India, Through its Branch Manager, Dhamtari, Tehsil & District Dhamtari (Chhattisgarh).
RESPONDENTS/ JUDGMENT DEBTORS	2. Raj Sethia, W/o Inder Chand Sethia, R/o Sadar Bazar, Dhamtari, Tehsil & District Dhamtari (Chhattisgarh).
	3. Prakash Chand Jain, S/o Panchulal Jain, R/o Sadar Bazar, Dhamtari, Tehsil & District Dhamtari (Chhattisgarh).
	4. Inder Chand Sethia, S/o Champalal, R/o Sadar Bazar, Dhamtari, Tehsil & District Dhamtari (Chhattisgarh).

MEMO OF APPEAL UNDER ORDER XLIII RULE 1 (j) OF THE CODE OF CIVIL PROCEDURE

A.F.R.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

MA No. 341
मामला क्रमांक ..... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.3.2006

Shri H.S. Patel, counsel for the appellant.

Heard on admission.

This appeal filed under Order 43 Rule 1(J) of the C.P.C., has been directed against the order dated 13/01/2006 passed by the Additional District Judge, Dhamtari whereby application filed by judgment debtors/ respondents No.2 to 4 under Order 21 Rule 89 of the C.P.C., for setting aside the auction sale has been allowed.

Appellant is an auction purchaser who participated in the auction proceedings conducted by the Court in execution proceedings of Civil Suit No. 17-A/1992 and purchased the property in auction sale. To set aside the auction sale judgment debtors filed an application under Order 21 Rule 89 of the C.P.C. Learned Court below vide impugned order accepted the application and set aside the sale.

Admittedly, the application has been filed within 60 days and necessary amount required to be deposited by judgment/debtors has also been deposited within that period.

Only grievance of the appellant is that application was not filed at the time of sale. Therefore, auction sale on instant application was not liable to be set aside. Order 21 Rule 89 of the C.P.C., prescribes filing of application at the time of sale or thereafter with conditions that of depositing in Court 5% of

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

purchase money and the amount due for payment to decree holder. Under Order 21 Rule 92 of the C.P.C., time for depositing the amount is 60 days or as extended by the Court that means for filing application time limit is 60 days.

Here in the instant case, within prescribed period necessary amount has been deposited and application to set aside the sale has been filed therefore, learned Court below correctly accepted the application and set aside the sale.

No interference is called for in the impugned order, therefore, the appeal is summarily dismissed. Consequently M.(C).P. No. 406/2006 and I.A. No. 958/2006 stand disposed of.

Sd/-
V.K.Shrivastava
Judge

KVR

[पीछे देखिये